IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 27376 of 2007(H)

PETITIONERS:
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1. **K.C.JOSEPH, S/O.CHACKO, AGED 70 YEARS,**
   KONNACKAL HOUSE, OZHUVATHADAM MILL MEN SETTLEMENT
   VALARA KARA, MANNAKANDAM VILLAGE, IDUKKI DISTRICT.

2. **K.J.BABU, S/O.JOSEPH, AGED 44 YEARS,**
   DO. DO.

3. **K.J.SAJEEV, S/O JOSEPH,**
   AGED 40 YEARS, DO. DO.

BY ADV. SRI.RAJAN JOSEPH
SRI.P.I.DAVIS

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY ITS**
   SECRETARY, FOREST AND WILD LIFE,
   DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. **CHIEF CONSERVATOR OF FORESTS,**
   THIRUVANANTHAPURAM.

3. **FOREST RANGE OFFICER,**
   NERIAMANGALAM RANGE, IDUKKI DISTRICT.

BY SENIOR GOVERNMENT PLEADER SRI.D.ANILKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 27376 OF 2007
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Dated this the 14th day of September, 2007

J U D G M E N T

Three petitioners are in possession of plots of land having a total extent of 33 acres. It is stated that the land is developed into a cardamom plantation with all registrations that are necessary. It is the case of the petitioners that twice in the past, their possession was disputed and finally they had to file suit as OS 24/97 before the Munsiff's Court, Devikulam in which Ext.P1 judgment was rendered decreeing the suit. Accordingly, the Munsiff Court restrained the respondents therein from tresspassing into the plaint schedule property or evicting the petitioners who were plaintiffs therein, otherwise than in due process of law. It was also held that until they are evicted from the property as aforesaid, the petitioners are entitled to do agricultural operations in the property and harvest the crops

therein. Now the petitioners are in receipt of Ext.P3 notice, wherein reference has been made to the Civil Court judgment in OS 24/97 and they are called upon to produce documents supporting their claim for title. It is challenging Ext.P2, this writ petition has been filed.

2. As already noticed, the petitioners possession and the right to harvest the crops until they are evicted in accordance with due process of law, has been declared by the Civil Court. This does not in any manner affect the right of the Government to take steps for their eviction. Ext.P2, which is only a notice calling upon the petitioners to produce documents in support of their claim of title in respect of the land in their possession. Hence Ext.P2 cannot be faulted. However the petitioners have averred that in response to Ext.P2, they have produced their documents in support of their claim of title and that the said documents are sought to be ignored by the respondents and the petitioners were

threatened with imminent eviction.

3. As already held by me, Ext.P2 is only a notice in pursuance to Ext.P1. If the petitioners are producing their documents in support of their claim of title, the authorities are obliged to conduct an enquiry into the correctness of the claim raised by the petitioners. In such an enquiry, necessarily the petitioners should be given a reasonable opportunity to sustain their claim also. On conclusion of the enquiry, the authorities have to pass orders dealing with the contentions raised by the petitioners and until then, petitioners possession and enjoyment of the property cannot be disturbed.

4. Therefore, I dispose of this writ petitioner directing the respondents to conduct an enquiry in pursuance to Ext.P2, with notice and opportunity to the petitioners as directed hereinabove and thereafter pass a speaking order dealing with each of their contentions.

5. At this stage, the learned counsel for the writ petitioners expresses his apprehension of an imminent eviction from the land in question. In my view that apprehension has no basis and the petitioners are already protected by Ext.P1 judgment of a competent Civil Court, which is binding on the respondents. The respondents will ensure that possession and enjoyment of the land is not disturbed until orders are passed as above.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp